

October 21, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street NW
Washington, DC 20554

Re: Broadband Privacy NPRM, WC Docket No. 16-106

Dear Ms. Dortch:

On October 20, 2016, Emmett O'Keefe of the DMA, Dave Grimaldi of the IAB, Peter Kosmala of the 4A's, Clark Rector of the AAF, Keith Scarborough of the ANA, and Mike Signorelli and Rob Hartwell of the law firm Venable LLP, met with Commissioner Michal O'Rielly and Amy Bender, Legal Advisor, Wireline.¹

During this meeting, the participants discussed the Federal Communications Commission's ("FCC") Notice of Proposed Rulemaking ("NPRM") regarding broadband privacy, as well as the recently released Fact Sheet from Chairman Wheeler's office. The parties discussed how the Fact Sheet's sensitive information definition diverges from the Federal Trade Commission's ("FTC") privacy framework by including web browsing and application use information in the sensitive data category, and discussed the approach proposed by the parties, which would categorize web browsing and application use history information as non-sensitive and subject the use of that data to a requirement to provide "clear, meaningful, and prominent notice that permits the customer to take action to opt-out" of its use, similar to existing industry self-regulatory standards developed by the Digital Advertising Alliance ("DAA").²

The participants also expressed concern, as stated in their letter to the FCC of October 10, 2016, that the record does not support the approach to sensitive information set forth in the fact sheet.³ They noted that the proposal was not included in the FCC's earlier proposed Order that was released for comment, and the FCC has not released the text of the new approach for public review and comment. The parties stated that additional time should be provided for the public to comment on and consider the proposal.

Sincerely,

/s/ Rob Hartwell

¹ This disclosure is made in compliance with 47 C.F.R. § 1.1206.

² Trade Associations, *Trade Association Proposal Regarding Sensitive Information and Consent Standard*, 2-3 (Oct. 19, 2016)
<https://ecfsapi.fcc.gov/file/10190452917503/Trade%20Association%20Proposal%20Regarding%20Sensitive%20Information%20and%20Consent%20Standard.pdf>.

³ Trade Associations, *Ex Parte: Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, WC Docket No. 16-106 (Oct. 10, 2016)
<https://ecfsapi.fcc.gov/file/1010145590290/Trade%20Association%20Letter%20to%20FCC.pdf>.

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Cc: Amy Bender